

TERMS AND CONDITIONS OF PURCHASE

1. This purchase order is a legal, binding contract and may not be amended except in writing, signed by both parties, such as by formal, written change order from the County Purchasing Office.
2. The County of Henrico (the "County") shall not be bound in any manner for goods delivered to services rendered except on the basis of this purchase order including these terms and conditions.
3. Goods and services must be delivered and rendered strictly in accordance with the applicable bid or quotation and shall not deviate in any way from the terms, conditions, prices, quality, quantity, delivery instructions, and specifications of the bid or quotation.
4. All goods and/or services delivered and/or rendered shall comply with all applicable federal, state, and local laws, and shall not infringe any valid patent or trademark.
5. The supplier shall indemnify, defend, and hold harmless the County (including Henrico County Public Schools), and the County's officers, agents, and employees from any claims, damages, suits, actions, liabilities, and costs of any kind or nature, including attorneys' fees, arising from or caused by the provision of any goods and/or services, the failure to provide any goods and/or services and/or the use of any services and/or goods furnished (or made available) arising from, growing out of, or in any way involved with the goods delivered or services rendered pursuant to this purchase order by the supplier, including but not limited to claims or allegations of intellectual property infringement, bodily harm, property damage, or wrongful death, provided that such liability is not attributable to the County's sole negligence. In the event that suit is brought against the County, its officers and/or its employees (either independently or jointly with the supplier), arising out of this purchase order and/or the goods and/or services that are the subject of this purchase order, the supplier shall defend the County, its officers and employees, in any such suit at no cost to them. In the event that final judgment is obtained against the County, its officers and/or its employees, either independently or jointly with the supplier, then the supplier shall pay such judgment, including costs and attorneys fees, if any, and hold the County, its officers and employees, harmless therefrom.
6. To the extent that any terms and conditions contained in the supplier's acknowledgement, bid, or other forms conflict with those contained in this purchase order, those contained in the purchase order shall prevail.
7. Except for subscription services, the County shall not pay for any goods or services until they have been delivered or rendered.
8. The County will pay for goods delivered or services rendered in compliance with the terms, conditions, and specifications of this purchase order either on the date on which payment is due under the terms of this purchase order or, if no date is set out in this purchase order, not more than 45 days after the goods or services are received in full by the County or not more than 45 days after the invoice is received by the County, whichever is later.
9. Unless otherwise provided in this purchase order, if the County fails to pay by the payment date, the County agrees to pay the finance charge assessed by the supplier, which shall not exceed one percent per month.
10. Unless otherwise provided in this purchase order, all prices must be F.O.B. delivered to the point as indicated on the front of the purchase order. The County will grant no allowance for boxing, crating, or delivery unless specifically provided for in the bid or quotation. When a specific purchase is quoted or negotiated F.O.B. shipping point, the supplier shall ship

prepaid, add the charges to invoice, and attach the original receipted freight bill to the invoice.

11. The supplier shall indicate the purchase order number on the front of each invoice and on the outside of each package or shipping container.
12. The County is exempt from the payment of federal excise and state sales taxes. If any such tax is included on the invoice, it must be shown as a separate item. Tax exemption certificates will be furnished to the supplier upon request.
13. Cash discounts shall be deducted as indicated on the front of this purchase order or in accordance with the terms of the quotation or bid.
14. The supplier shall not, in its product literature or advertising, refer to this purchase order or the use of the supplier's goods or services by the County.
15. If this purchase order is over \$10,000:

(1) During the performance of this purchase order, the supplier agrees as follows:

- a. The supplier will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the supplier. The supplier agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The supplier, in all solicitations or advertisements for employees placed by or on behalf of the supplier, will state that such supplier is an equal opportunity employer.
- c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) The supplier will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or supplier.

16. During the performance of this purchase order, the supplier agrees to (i) provide a drug-free workplace for the supplier's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the supplier that the supplier maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or supplier.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract or purchase order awarded to a supplier in accordance with the Virginia Public Procurement Act, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract or purchase order.

17. Henrico County does not discriminate against faith-based organizations as that term is defined in Virginia Code § 2.2-4343.1.
18. In the event that the supplier fails to deliver the goods or services within the time specified, or if the supplier otherwise defaults, the County may, after reasonable notice, procure such goods or services from other sources. In such event, the supplier shall be liable to the County for any additional cost occasioned by such failure to deliver or other default.
19. The County welcomes and encourages the participation of small businesses and businesses owned by women and minorities in procurement transactions made by the County.
20. The supplier expressly agrees, both directly and through its subcontractors, to take every precaution at all times for the protection of persons and property who or which may come on County property or be affected by the supplier's operation in connection with the performance of the purchase order.
21. The supplier shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the purchase order.
22. The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia and as issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia shall apply to all work under this purchase order.
23. This purchase order shall be governed by and interpreted under the laws of the Commonwealth of Virginia without regard to its conflict of law rules. Any dispute arising out of this purchase order, its performance, or its interpretation, shall be initiated and tried only in the courts of the County of Henrico, Virginia.
24. Authorization to Transact Business in the Commonwealth
 - (1) A business entity organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law.
 - (2) Any business entity described in subsection (1) that enters into a contract with a public body shall not allow its existence to lapse or allow its certificate of authority or registration to transact business in the Commonwealth if so required by Title 13.1 or Title 50 of the Code of Virginia to be revoked or cancelled at any time during the term of the contract.
25. The supplier does not, and shall not during the performance of this purchase order for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
26. Payment Clauses Required by Va. Code § 2.2-4354
 - (1) The supplier shall take one of the two following actions within seven days after receipt of amounts paid to the supplier by the County for all or portions of the goods

and/or services provided by a subcontractor: (a) pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under that contract; or (b) notify the County and subcontractor, in writing, of the supplier's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

- (2) Pursuant to Virginia Code § 2.2-4354, suppliers that are proprietorships, partnerships, or corporations shall provide their federal employer identification numbers to the County. Pursuant to Virginia Code § 2.2-4354, suppliers who are individual contractors shall provide their social security numbers to the County.
 - (3) The supplier shall pay interest to its subcontractors on all amounts owed by the supplier that remain unpaid after seven days following receipt by the supplier of payment from the County for all or portions of goods and/or services performed by the subcontractors, except for amounts withheld as allowed in Subparagraph 26(1) above.
 - (4) Pursuant to Virginia Code § 2.2-4354, unless otherwise provided under the terms of the Contract interest shall accrue at the rate of one percent per month.
 - (5) The supplier shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
 - (6) The supplier's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in Virginia Code § 2.2-4354 shall not be construed to be an obligation of the County. A purchase order modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.
27. It is understood and agreed that this contract shall be subject to annual appropriations by the County of Henrico, Board of Supervisors. Should the Board fail to appropriate funds for this contract, the contract shall be terminated when existing funds are exhausted. The supplier shall not be entitled to seek redress from the County of Henrico, Virginia should the Board of Supervisors fail to make annual appropriations for this contract.